

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

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Amendment of Section 73.202(b)  
of the Rules (Table of Allotments)  
(Barnwell, SC; Pembroke, GA;  
Douglas, GA; Willacoochee, GA)

MM Docket No. 00-18  
RM-9790

To: Chief, Allocations Branch, Policy and  
Rules Division, Mass Media Bureau

**COMMENTS OF BULLIE BROADCASTING CORPORATION**

Bullie Broadcasting Corporation ("Bullie"), licensee of broadcast station WBAW-FM, Barnwell, South Carolina, and petitioner herein, through counsel and pursuant to Section 1.415 of the Rules, hereby files these Comments in response to the FCC's *Notice of Proposed Rulemaking* in the above-captioned proceeding, DA 00-172, released February 1, 2000 (the "NPRM").

***Background***

This proceeding was initiated in response to Bullie's Petition for Rule Making, pursuant to Section 1.420(i) of the FCC's rules, which permits modification of a station's authorization to specify a new community of license without affording other parties to file competing expressions of interest in filing applications for the allotment. Specifically, Bullie proposed --

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and the *NPRM* proposes -- amendment of Section 73.202(b) of the Rules, the Table of FM Allotments, as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Barnwell, South Carolina	256C3	256C3 <sup>1</sup>
Pembroke, Georgia	--	257C1
Douglas, Georgia	258C1, 294C1	294C1
Willacoochee, Georgia	--	258C1

### ***Summary Of Proposal***

Specifically, Bullie asked the FCC to exercise its power, under Section 316(a) of the Communications Act and pursuant to the *Report and Order* in MM Docket No. 88-526, 4 FCC Rcd 4870 (1989) ("Modification of FM and TV Authorizations to Specify a New Community of License") to (1) amend the FM Table of Allotments to delete Channel 258C1 at Douglas, Georgia, and add Channel 258C1 at Willacoochee, Georgia, and modify the license of WDMG-FM to specify operation on Channel 258C1 at Willacoochee; (2) amend the Table of FM Allotments to delete Channel 256C3 at Barnwell, South Carolina, add Channel 257C1 to the Table of FM Allotments at Pembroke, Georgia, and modify the license of WBAW-FM to specify operation on Channel 257C1 at Pembroke; and (3) add Channel 256C3 to the Table of FM Allotments at Barnwell, South Carolina, with a site restriction 20.3 kilometers north-

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<sup>1</sup> With a site restriction 20.3 kilometers north-northwest of the center of Barnwell, at reference coordinates of 33° 24' 40" north and 81° 16' 45" west.

northwest of the center of Barnwell, at reference coordinates of 33° 24' 40" north and 81° 16' 45" west.

***Public Interest Benefits; Expression Of Continuing Interest***

In its Petition for Rule Making, Bullie showed how the proposed changes would result in a preferential ordering of the FM Table of Allotments, by providing first local services to the communities of Pembroke and Willacoochee, without depriving either Barnwell or Douglas of their sole local aural service. Also, to minimize the number of persons who might experience a loss of service from the re-allotment of WBAW-FM to Pembroke, Bullie proposed a "back fill" allotment of Channel 256C3 at Barnwell, at a restricted transmitter location.

In these Comments, Bullie adopts and incorporates by reference the showings and representations made in its Petition for Rule Making (except as expressly modified herein), including Bullie's pledge to apply for Channel 257C1, if allotted to Pembroke, and Channel 256C3, if allotted to Barnwell. Further, as to the Pembroke allotment, Bullie represents that it will not commence operation until WDMG-FM has completed construction and commenced operation with modified facilities at Willacoochee and, as to the proposed "back fill" allotment of Channel 256C3, Bullie further represents that, in the event there is more than one application for the construction permit, Bullie will make at least a qualifying minimum opening bid at the auction for the authorization. Bullie further reiterates that it will reimburse the licensee of WDMG-FM for reasonable expenses incurred in moving the WDMG-FM transmitter (including construction of a new transmission tower) to a site which conforms to the new allotment at Willacoochee. (As shown in the Petition for Rule Making and recited in

the *NPRM*, n. 1, the licensee of WDMG-FM has consented to the change in its authorization and the change in its transmitter site; accordingly, no *Order to Show Cause* has been issued to WDMG-FM.)

***Response To Specific Questions Raised In The NPRM***

In addition, Bullie responds in these Comments to certain technical matters raised in the *NPRM*. There are three such matters:

***No Under-Served Areas Will Be Created***

First, the *NPRM* alleges (§ 6) that "the reallocation of Channel 271C1 to Pembroke and the 'back-fill' of Channel 256C3 at Barnwell, will create under-served areas where 508 people within a 116.5 square mile area will receive only three full-time aural services and 2,004 people within a 328 square kilometer area will receive only four such services."<sup>2</sup> The *NPRM* further concludes that the allotment of Channel 257C1 to Pembroke will provide a fourth aural service to 27 persons and a fifth aural service to some 6,497 persons. The staff also disapproved of Bullie's use of two daytime-only AM stations, WBUB, Barnwell, and WDOG, Allendale, South Carolina, to support the conclusion of the Petition that all areas currently served by WBAW-FM would continue to receive five or more aural services, and criticized the

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<sup>2</sup> On or about February 14, 2000, counsel for Bullie filed a Freedom of Information Act request with the Office of the Managing Director, seeking copies of engineering studies, etc., of areas and populations served, proposed to be served, gained or lost in connection with Bullie's Petition for Rule Making and the *NPRM*. Notwithstanding that more than 20 business days have elapsed since Bullie's FOIA, no response from the FCC has been forthcoming. Because Bullie does not have access to the staff studies referred to in the *NPRM* (§ 6), it is unable to independently test the assumptions underlying the conclusions in the *NPRM*.

use of the WBUB 0.5 mV/m contour rather than the 2.0 mV/m contour. In response to the *NPRM*, Bullie's consulting engineer, William Culpepper, re-examined the number of stations providing service within the potential WBAW-FM loss area. Among other conclusions, Mr. Culpepper believes that, because of an error in labeling on Attachment B, Figure 1, of the Petition, the staff erroneously concluded that Bullie was relying on service from WDOG(AM) to the loss area. In fact, the service shown was from WDOG-FM, which was correctly identified in Table 1 and correctly labeled on all other figures. Of at least equal importance, Mr. Culpepper has identified two additional FM stations, WZBX, Sylvania, Georgia, and WHKN, Millen, Georgia, which provide 60 dBu or better service to the potential WBAW-FM loss area. Accordingly, as shown in the attached Engineering Exhibit, Mr. Culpepper now concludes that, taking into account these additional FM services, the entire potential WBAW-FM loss area receives five or more other full-time aural services.<sup>3</sup>

If the figures in the *NPRM* were complete -- and, based on Mr. Culpepper's updated studies, Bullie believes they are not -- they nevertheless show a net gain of 4,493 persons who would receive at least five full-time services and a net increase of only 481 persons who would receive three full-time services rather than four. Compared to the increased number of persons who would receive five services rather than four, and the net service gain of nearly 717,000 people from the changes proposed in the Petition, taken as a whole (*Petition*, p. 8), the increase in under-served areas cited in the *NPRM* is inconsequential. See, e.g., *Table*

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<sup>3</sup> Mr. Culpepper's revised figures also utilize the WBUB 2.0 mV/m contour as suggested by the staff.

of FM Allotments (Cross Plains, TX, etc.), DA 00-584, released March 21, 2000, ¶ 8 (granting reallocation which would result in 3,727 persons losing a fifth aural service, 176 persons losing a fourth aural service and 63 persons losing a third aural service, without offsetting gains in service to under-served areas). As discussed in the preceding paragraph, however, Bullie believes the proposal will not result in the creation of *any* under-served areas and the whole question, therefore, should be irrelevant.

*Even If Channel 256C3 Is Not Allotted To Barnwell As A Back-Fill Allotment, The Proposed Re-allocation of Channel 257C1 To Pembroke Will Not Result In The Creation Of Under-Served Areas*

Possibly reflecting the belief -- which Bullie has shown, above and in the attached engineering statement, is erroneous -- that the re-allocation of Channel 257C1 to Pembroke would result in the creation of under-served areas, the *NPRM* (¶ 6) also directed Bullie to provide "a showing of the loss area and population which would occur if Channel 257C1 is allotted to Pembroke without taking into account the allotment of Channel 256C3 to Barnwell." This matter was addressed in Figure 1B to Attachment B to the Petition for Rule Making, which showed both the existing WBAW-FM and proposed Channel 256C3 60 dBu contours overlaid on other aural services (listed in Table 1 to Attachment B). As supplemented by the engineering statement attached to these Comments, which includes the contours of two additional FM services, that data shows that no under-served areas would be created even assuming no back-fill assignment of Channel 256C3 to Barnwell is made.

*However Measured The Proposed Re-Allotment Of Channel 258C1 To Willacoochee Will Result In Substantial Net Additional Service*

The *NPRM* also takes issue (§ 6) with the Petition's calculation of gains and losses from the re-allotment of Channel 258C1 to Willacoochee. In the Petition, Bullie concluded that re-allotment would result in a service gain for 292,619 persons, a service loss to 14,033 persons (none of whom would be under-served) and, therefore, a net overall gain of 278,586 persons. The staff noted, however, that these figures were derived using WDMG-FM's existing facilities and that, using "the required maximum facilities for a Class C1 station . . . the reallocation . . . would result in a loss of service by 110,163 people with an 8,276 square kilometer area."

The existing WDMG-FM operates (and has operated, since 1996) with the bare minimum facilities for a Class C1 station. For that reason, Bullie chose, in the Petition, to compare existing WDMG-FM service with full Class C1 service, construction of which will be reimbursed to WDMG-FM's licensee in the event the proposed changes in the Table of Allotments is adopted. Comparison to hypothetical maximum facilities at the existing location, it would seem, would be equivalent to comparing apples to oranges. Maximum facilities at the present site are not simply theoretical but conjectural and speculative. However, in the attached engineering statement, Revised Figure 5 compares Channel 258C1 facilities at both the current WDMG-FM site and the proposed Willacoochee coordinates, assuming uniform terrain. According to this comparison, the loss area includes 109,893 persons in an area of 6,966 square kilometers, and a gain of 198,494 persons (also in an area of 6,966 square

kilometers). Calculation in accordance with the directive in the *NPRM*, therefore, still shows a net gain of 88,601 persons. This shows that, whether the proposed service at Willacoochee is compared to existing service at Douglas, or to theoretical service, the result is a substantial net gain, which clearly serves the FCC's allotment priorities.

### ***Conclusion***

The foregoing, together with the Petition for Rule Making, shows that the proposal set out in the *NPRM* would result in the provision of a first local service to Pembroke and Willacoochee and substantial overall net service gains, without depriving any community of its only aural service or creating any under-served areas.<sup>4</sup> Because the proposal would thus

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<sup>4</sup> If the calculation of the gain from re-allotment of Channel 258C1 to Willacoochee is made as described above rather than as in the Petition for Rule Making, the overall net service gain that will follow from the adoption of the proposal is 526,843 persons.



result in, overall, a preferential ordering of the Table of FM Allotments, the proposal should be adopted.

Respectfully submitted,

BULLIE BROADCASTING  
CORPORATION

By 

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March 23, 2000

BULLIE BROADCASTING CORPORATION

BARNWELL, SC; PEMBROKE, GA; DOUGLAS, GA; WILLACOOCHEE, GA

ENGINEERING EXHIBIT

March 2000

William Culpepper & Associates  
900 Jefferson Drive  
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BULLIE BROADCASTING CORPORATION

BARNWELL, SC; PEMBROKE, GA; DOUGLAS, GA; WILLACOOCHEE, GA

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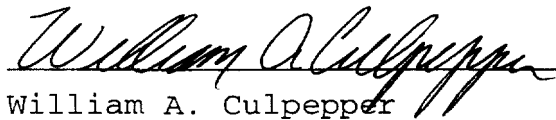
BULLIE BROADCASTING CORPORATION

BARNWELL, SC; PEMBROKE, GA; DOUGLAS, GA; WILLACOOCHEE, GA

DECLARATION

I declare, under penalty of perjury, that I have prepared the attached Engineering Exhibit for Bullie Broadcasting Corporation, and that all of the facts therein, except for facts of which the Federal Communications Commission may take official notice, are true to the best of my knowledge and belief; and that I am a Registered Professional Engineer in the State of Georgia.

Executed on March 21, 2000.

\_\_\_\_\_

William A. Culpepper

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BULLIE BROADCASTING CORPORATION

BARNWELL, SC, PEMBROKE, GA, DOUGLAS, GA AND WILLACOOCHEE, GA

NARRATIVE

This exhibit has been prepared in support of the attached Comments of Bullie Broadcasting Corporation. The purpose is to respond to Commission concerns and questions in paragraph 6 and footnote 5, of The Notice of Proposed Rule Making, MM Docket No. 00-18, RM-9790.

Figures 1, 1A and 1B have been revised to add the contours of WZBX, channel 293A, Sylvania, Georgia, and WHKN, channel 235C3 at Millen, Georgia. This adds two services to the deficient area at the southwest periphery of the present WBAW coverage area. In response to footnote 5, the WDOG contours shown on the Revised Figures 1, 1A and 1B in this exhibit are for WDOG(FM), channel 228A at Allendale, South Carolina. Also, the 0.5 mV/m contour for WBUB has been removed, and the WBUB 2 mV/m contour is now shown, as suggested in the footnote.

The addition of WZBX, WHKN and WDOG-FM eliminates underserved area inside the present WBAW 60 dBu contour.

Revised Table 1 reflects the above mentioned changes.

Revised Figure 4 shows the areas and populations resulting from the allotment of channel 257C1 to Pembroke without taking into account the allotment of channel 256C3 to Barnwell.

Revised Figure 5 shows the present and proposed WDMG contours as maximum class C1 facilities, using uniform terrain. Areas and populations are shown on the figure.

BULLIE BROADCASTING CORPORATION

BARNWELL, SOUTH CAROLINA

REVISED TABLE 1

STATIONS PROVIDING SERVICE INSIDE THE PRESENT  
60 dBu CONTOUR OF WBAW, BARNWELL, SOUTH CAROLINA

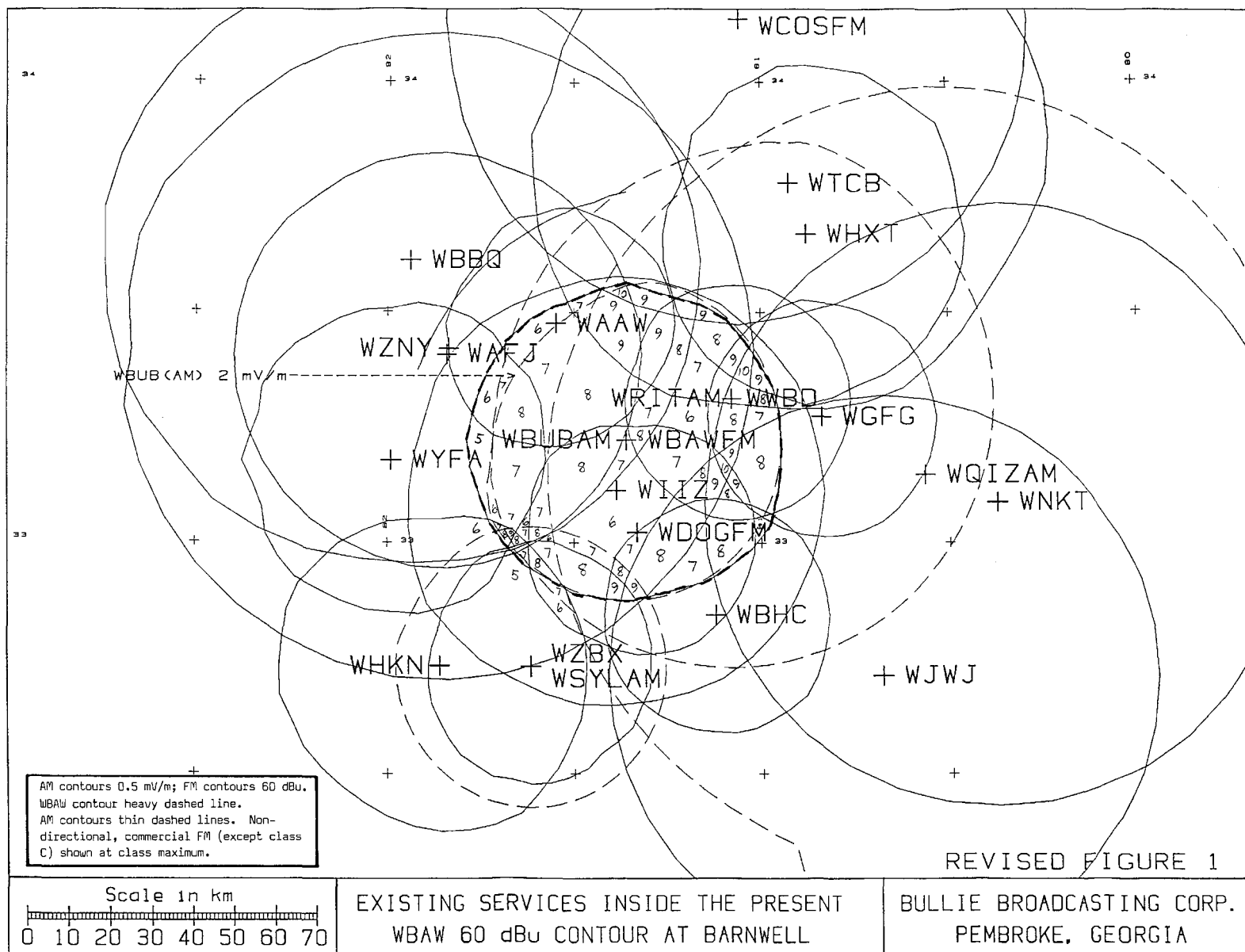
(See Figures 1, 1A and 1B)

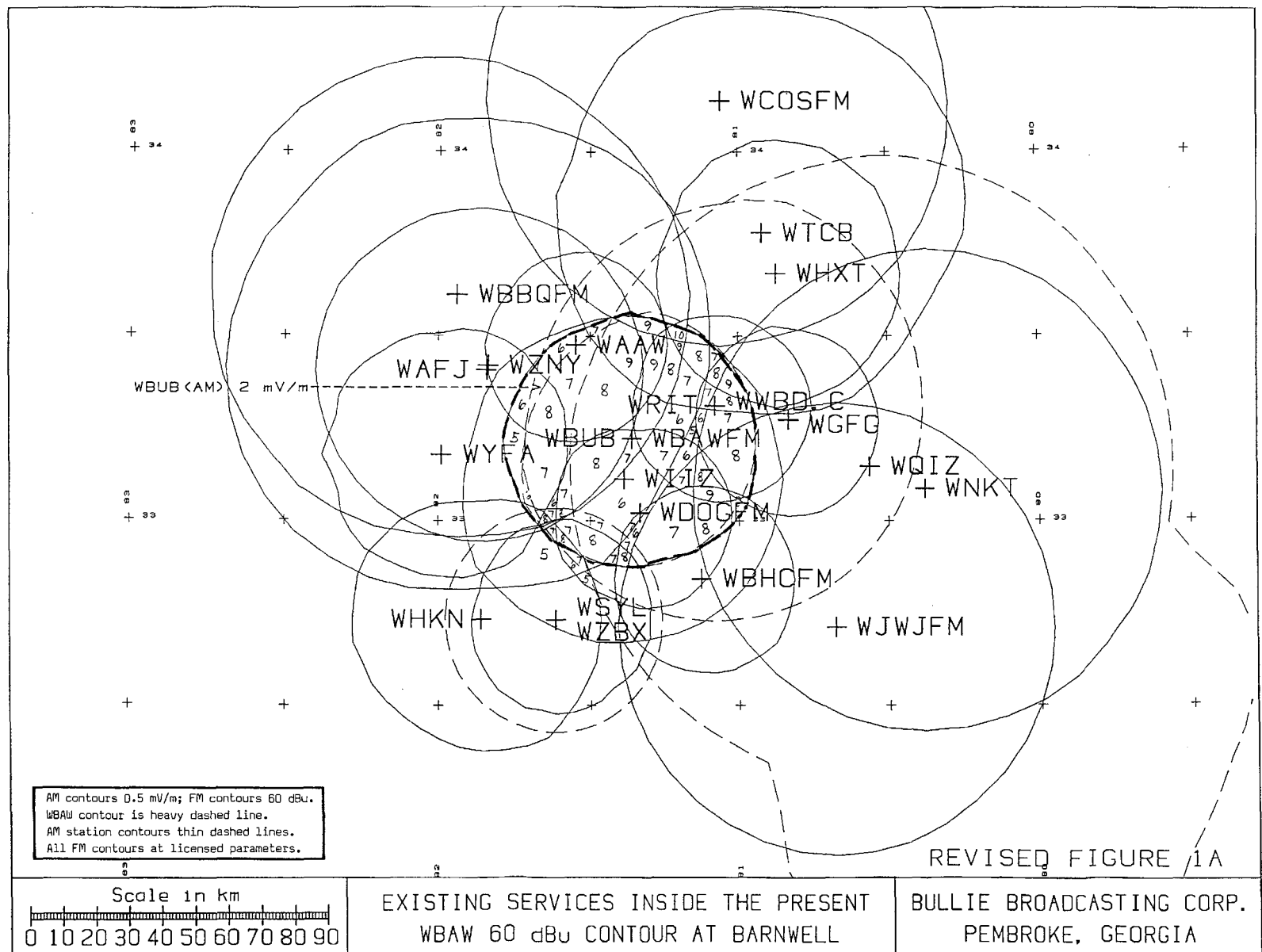
FM STATIONS

<u>CALL</u>	<u>CHANNEL</u>	<u>CITY AND STATE</u>
WCOS	248C1	COLUMBIA, SC
WTCB	294C1	ORANGEBURG, SC
WBBQ	282C	AUGUSTA, GA
WHXT	280A	ORANGEBURG, SC
WZNY	289C	AUGUSTA, GA
WAFJ	202C2	BELVEDERE, SC
WAAW	234A	WILLISTON, SC
WWBD	239A	BAMBERG, SC
WYFA	296C3	WAYNESBORO, GA
WIIZ	250C2	BLACKVILLE, SC
WNKT	298C	ST. GEORGE, SC
WDOG	228A	ALLENDALE, SC
WBHC	276A	HAMPTON, SC
WJWJ	210C1	BEAUFORT, SC
WZBX	293A	SYLVANIA, GA
WHKN	235C3	MILLEN, GA

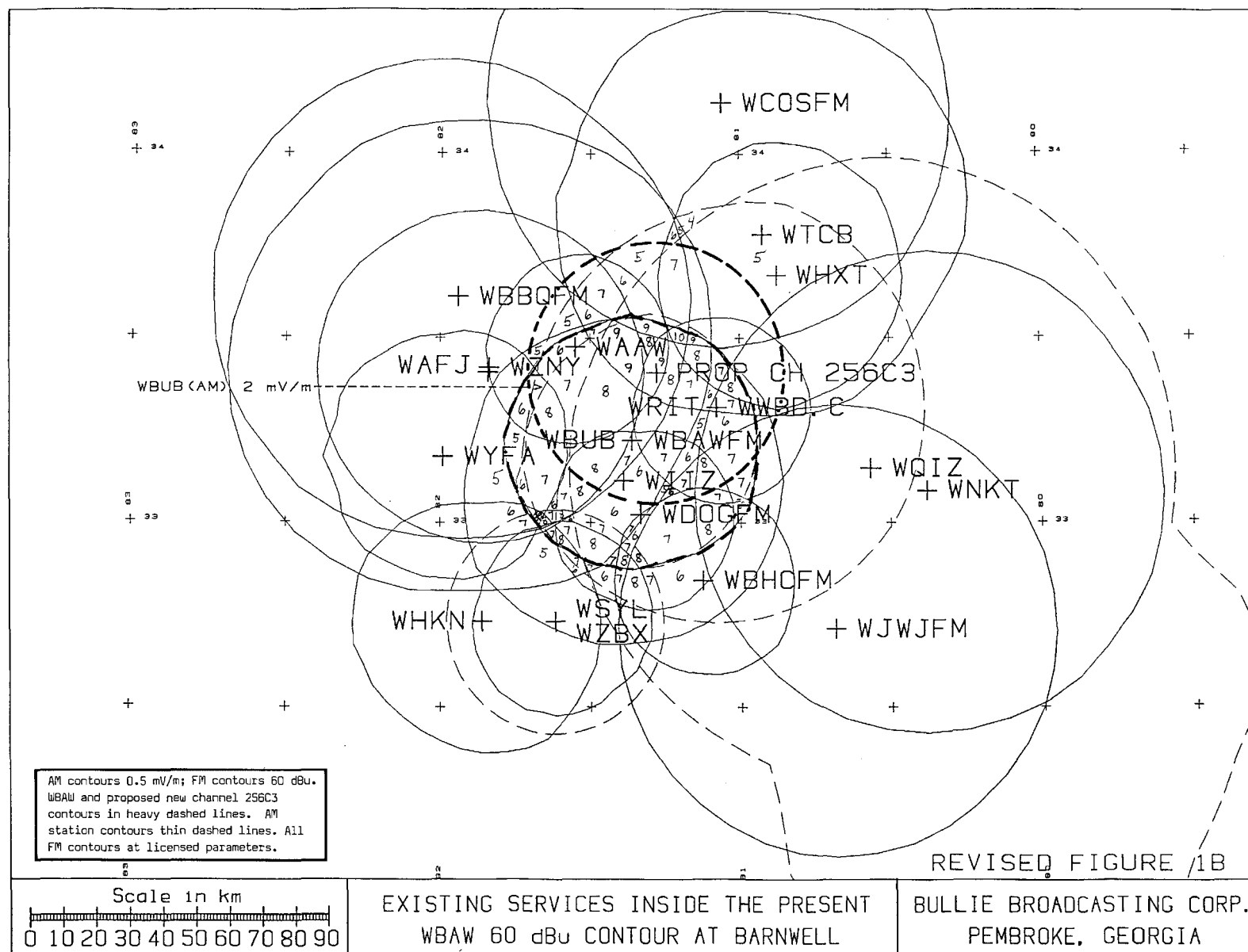
AM STATIONS

WRIT	790	BAMBERG, SC
WBUB	740	BARNWELL, SC
WQIZ	810	ST. GEORGE, SC
WSYL	1490	SYLVANIA, GA

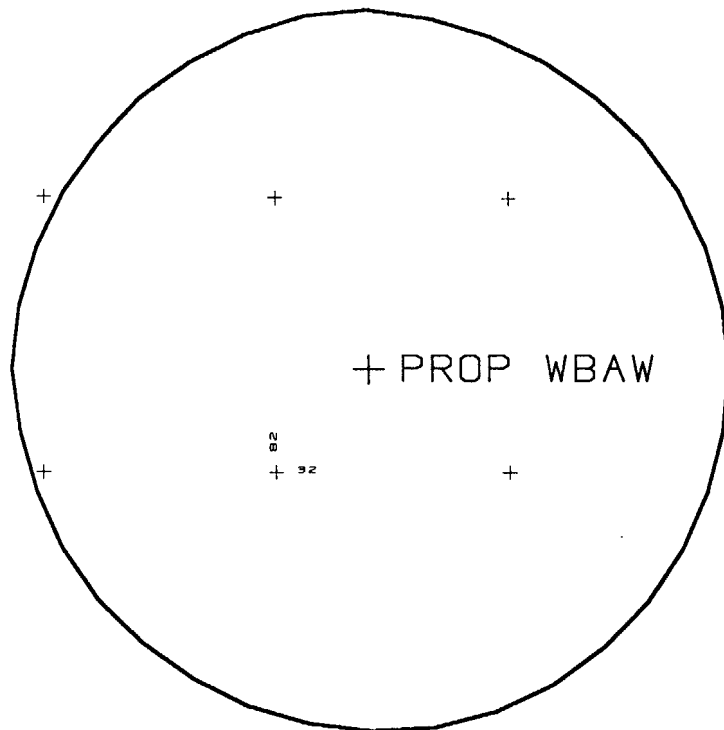
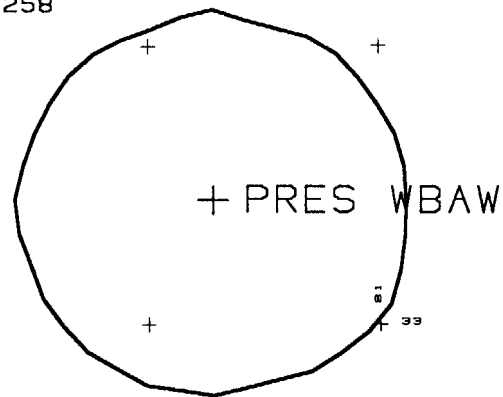








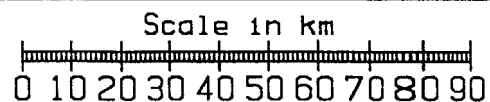
PRESENT WBAW AREA 4688 SQ KM  
PRESENT WBAW POPULATION 60,258



PROPOSED WBAW AREA 16,421 SQ KM  
PROPOSED WBAW POPULATION 462,251

NET AREA GAIN 11,733 SQ KM  
NET POPULATION GAIN 401,993

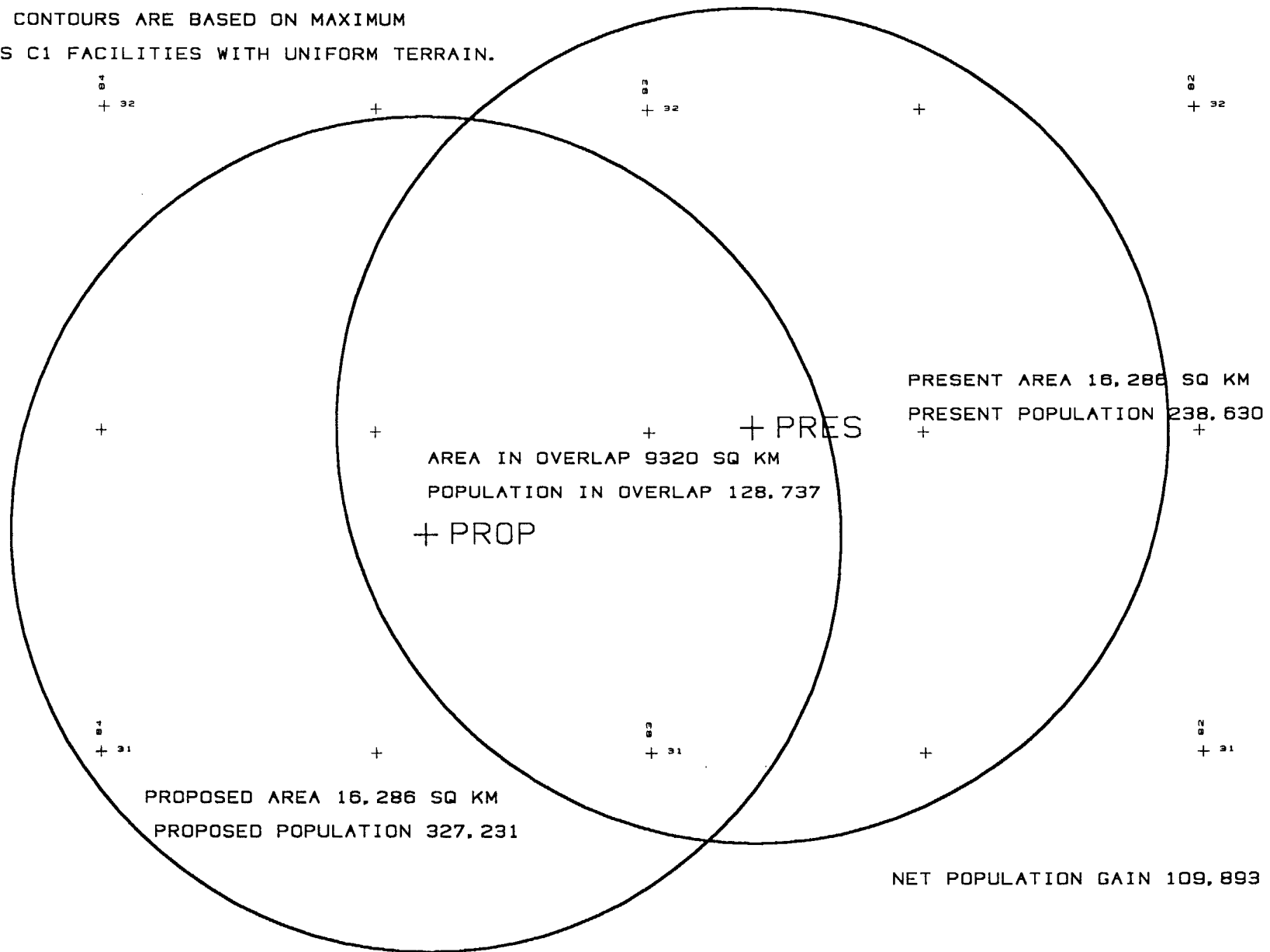
REVISED FIGURE 4



THE PRESENT AND PROPOSED WBAW  
60 dBu CONTOURS, AREAS AND POPULATIONS

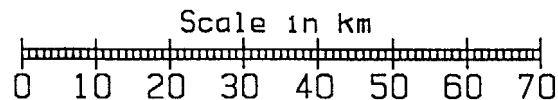
BULLIE BROADCASTING CORP.  
BARNWELL, SC/PEMBROKE, GA

BOTH CONTOURS ARE BASED ON MAXIMUM  
CLASS C1 FACILITIES WITH UNIFORM TERRAIN.



1:1,000,000

REVISED FIGURE 5



THE PRESENT AND PROPOSED WDMG  
60 dBu CONTOURS, AREAS AND POPULATIONS

BULLIE BROADCASTING  
WILLACOOCHEE, GEORGIA